

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 14632 of 2004

Between:

Nallamothu Rajendra Prasad, S/o Late Lakshminarayana,
R/o Kakumanu Village and Mandal, Guntur District.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Secretary,
Department of Endowments, Secretariat Buildings, Saifabad, Hyderabad.

2 The Commissioner, Department of Endowments, Andhra Pradesh,
Hyderabad

3. Nallamothu Sivaramakrishna, s/o. Venkataratnam, 40 years, Chairman,
Trust Board, Sri Chennakesavaswamy Temple, Kakumanu,

Guntur Dist.

(R3 is impleaded as per Court Order dt.28-10-2004

WPMP No. 25703 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records and issue a writ or order or direction more particularly one in the nature of Writ of Mandamus and set aside the impugned proceedings of the 2nd respondent D.Dis.No. M1/30100/2004, dt. 25-6-2004 being illegal, arbitrary and violative of Articles 14, 21 and 300 (A) of the Constitution of India apart from being violation of the principles of Natural Justice

Counsel for the Petitioner: MR.VENKATA RANGADAS KANURI

Counsel for the Respondent Nos.1&2: GP FOR ENDOWMENTS

Counsel for the Respondent No.3: Mr.A.Rajendra Babu

The Court made the following :

ORDER:

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

In this writ petition, the petitioner herein seeks to assail the impugned proceedings dated 25-6-2004 issued by the 2nd respondent as illegal and arbitrary, wherein he directs the Assistant Commissioner, Endowments Department, Guntur, to take steps for eviction of the sitting tenants and to put the land in question for lease in public auction as per the rules.

The case of the petitioner is that he has been in possession of the lands and therefore the impugned orders are passed without any notice and opportunity.

The third respondent, who has been subsequently impleaded, is the Chairman, Trust Board, of the temple had also complained that no such opportunity was given to him before such decision is taken by the respondents.

Having considered the submissions made on either side and on perusal of the material available on record, it is seen that there is no dispute of the fact that the impugned order is passed without any notice and opportunity on either side. In view of the same, it is desirable to pass orders on merits on the claims and allegations as made from both sides and as such it would suffice in the interest of justice to pass fresh orders by the authorities after giving notice and opportunity to both sides.

The writ petition is accordingly allowed and the impugned order is set aside. It is kept open for the authorities to pass orders afresh after giving notice and opportunity to both sides and it shall however open for both sides to raise the objections, if any, before the authorities. The entire exercise shall be done within a period of four

weeks from the date of receipt of a copy of this order.

B. PRAKASH RAO, J

Dt. 28-10-2004

Kvrk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday the Twenty Eighth day of October Two Thousand and Four.

Asst. Registrar

To

- 1 The Secretary, Government of Andhra Pradesh
Department of Endowments, Secretariat Buildings, Saifabad, Hyderabad.
- 2 The Commissioner, Department of Endowments, Andhra Pradesh,
Hyderabad.
3. Two CCs to GP for Endowments, High Court of A.P., Hyderabad
4. Two CD copies.

HON'BLE SRI JUSTICE B. PRAKASH RAO

WRIT PETITION NO. 14632 OF 2004

28th OCTOBER 2004